



FILE COPY

SEP 13 1971

E. ROBERT SEAVER, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1971.

No. 70-75.

MOOSE LODGE NO. 107,

*Appellant,*

*v.*

K. LEROY IRVIS, ET ALS.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA.

**OBJECTION OF APPELLEE K. LEROY IRVIS TO  
MOTION OF BENEVOLENT AND PROTECTIVE  
ORDER OF ELKS OF THE UNITED STATES  
OF AMERICA FOR LEAVE TO FILE  
BRIEF AMICUS CURIAE.**

Rule 42(2) of this Court states that a brief *amicus curiae*, filed with consent of the parties, must be presented within the "time allowed for the filing of the brief of the party supported."

Consent for the filing of a brief *amicus curiae* by the Benevolent and Protective Order of Elks of the United States of America (Elks) was requested in a letter from its

counsel to counsel for Appellee Irvis dated July 22, 1971; and received July 26, 1971. Counsel for Irvis immediately replied withholding consent and noting that the last date for filing with consent was June 25, 1971, the date on which Appellant, Moose Lodge's, brief was filed.

Because of this violation of the Court's rule, a violation which effectively prevents Irvis, in his brief, from considering any of the matters presented by the Elks, consent was withheld. For this reason Irvis believes the Elks' motion should be denied. Irvis notes, in addition, that the extensive listing of organizations in the proposed brief of the Elks is unaccompanied by any statements of organizational purposes, thus making the list totally unhelpful in considering the present case.

Respectfully submitted,

HARRY J. RUBIN,

LIVERANT, SENFT AND COHEN,

15 South Duke Street,

York, Pennsylvania. 17401

*Counsel for K. Leroy Irvis.*

September, 1971

